

After New Trial For Mortensen

Stewart Brothers, Counsel for Condemned Man, Set Forth
That a Mistake Was Made in Having Jury Go to Premises Without Accused Being Present—As to Royal B. Young's Position.

After several attempts made by defendant's attorneys to induce the court to allow Royal B. Young to take the witness stand and testify as to certain alleged wrongful acts committed by the jurors upon their official visit to the scene of the murder of James R. Hay, and which alleged acts are made the principal ground of error in support of the motion of Peter Mortensen for a new trial, the court at about 11 o'clock this morning ordered that a recess be taken until 2 o'clock in order to give defendant's attorneys another chance to secure the coveted affidavit of Mr. Young touching on the subject, and which he heretofore refused to give. According to the rulings made this morning it is quite evident that the affidavit will be the only way in which the matter can be brought before the court on a motion for a new trial.

This delay in the proceedings prevents all possible chance of the argument on the motion being completed today.

MORTENSEN HANDCUFFED.
Peter Mortensen entered the courtroom at 10 o'clock in charge of Sheriff Naylor and Deputy Raleigh. He was handcuffed to Fred La Blanche and John Jones, who were brought before the court for arraignment on the charges of robbery and grand larceny. His father and brother, who were already in the courtroom, and his brother Henry came in about five minutes later. Mortensen looked as well as ever and showed no signs of worry or nervousness. He took a seat on a bench beside his father and brothers, where he remained in conversation with them during the entire session of court. The crowd in attendance was rather small and was composed of more women than men. The only persons present were John B. Dailey and H. T. Shurtliff.

OPENING ARGUMENT.
Bernard J. Stewart opened the argument in favor of the motion for a new trial by reading the motion as heretofore published in the "News" in full, and the affidavit of himself, in support thereof, which set out that he was unable to get the affidavits of the balliffs and special officers of the court in charge of the jury on its visit to the scene of the murder, when it is set out in the affidavit, that a number of the jurors stepped off certain distances and considered certain matters as evidence against defendant, and that he was during the absence of defendant and which was contrary to law. The affidavit further sets out that Royal B. Young and the balliffs in charge of the jury refused to make affidavits as to the action of the jury on its visit to the scene of the murder, and it was asked that they be cited to appear and testify before the court as to the actions of the jurors on that occasion.

AFFIDAVITS OF JURORS.
He then read the affidavits of Jurors James M. Barlow, Stephen R. Le Roy and John B. Dailey, which were filed by District Atty. Elchorn, all of which measured off the distances set out in the affidavit on behalf of defendant, and that they had not discussed the same and considered them as evidence against defendant.

The affidavit of Mortensen, which was filed by Mr. Stewart this morning, was then read. It follows in full:
HENRY MORTENSEN'S STORY.
Henry Mortensen, being first duly sworn, deposes and says: "That on or about the 15th day of March, 1902, after the arrest of Peter Mortensen, the defendant in the above entitled action, I moved with my family to the home or residence then owned by Peter Mortensen; said residence being the place where Peter Mortensen lived during December, 1901, and many months prior thereto, and that I have resided at said Mortensen home and premises with my family ever since. That shortly after I took possession of said premises, and prior to the trial of said above entitled case, and prior to May, 1902, I made a number of improvements and alterations upon said premises, around the barn, sheds and rooms of said house belonging to Peter Mortensen, to-wit: The north rooms, the east rooms, and the southeast room, and that I made certain improvements and alterations in the cellar of the house belonging to said Peter Mortensen by taking out old lumber, potatoes and various other materials deposited and stored in said cellar. That immediately prior to the time the jury visited said premises, to-wit: on the 10th day of June, 1902, and immediately before and immediately after the visiting of said premises by said jury, sworn to try above entitled case, and of my own knowledge, I say that the cellar and rooms and buildings upon said premises were not in the same condition as they were at any time during the month of December, 1901, and prior thereto, and at the time that the said James R. Hay lost his life.

"And I further say that I was on the railroad track north and west of the premises known as the Peter Mortensen home at the time when the jury in the above entitled case visited the premises, and that I saw certain jurymen, to-wit: Alma H. Rock and Sterling R. LeRoy, measure by stepping off distances along said track.

"And I further say that the defendant in the above entitled case, Peter Mortensen, was not present during the time said jury was visiting said premises.

AFTER MR. YOUNG.
"If the court please," continued Mr. Stewart, "I ask that Royal B. Young be placed on the stand at this time to testify in regard to the actions of the jury on its visit to the scene of the crime. He has been subpoenaed and is present in court."

Such action was objected to by Dist. Atty. Elchorn on the ground that such matters should be brought before the court on a motion for a new trial, by the filing of affidavits, as provided in the statutes.

Judge Morse held that the matter should be brought before the court by affidavit and hence refused to allow Mr. Young to be placed on the stand.

Was that visit evidence in this case? We contend that if the plans introduced by the surveyors were evidence, then the houses, the tracks and the grave from which said plans were made, are even stronger evidence and that evidence was not introduced in this case in the presence of the defendant.

HER SON KILLED.

Young Salt Laker Meets Death in a Mine in Arizona.

An aged woman giving her name as Hansen, called at the police station this morning with a telegram from Bisbee, Ariz., announcing the death of her son, who was killed there in an accident at the Copper Queen Consolidated mine. The message was very brief, merely stating that her son had been killed and asking for instructions as to the disposition of the remains. Mrs. Hansen asked Chief Paul to do something for her in the way of compelling the mining company to send the body home. The chief communicated with Joseph W. Taylor, and the latter said he would attend to the matter himself.

MEADOWVILLE F. O. DISCONTINUED

(Special to the "News.")
Washington, D. C., Aug. 25.—The postoffice of Meadowville, Rich county, has been discontinued; mail to Laketown.

Jerome M. Hogman, of Lander, Wyoming, has been appointed a railway mail clerk.

OHIO LEGISLATURE IN EXTRA SESSION.

Columbus, O., Aug. 25.—The Ohio legislature convened at 3 p. m. today in extraordinary session to enact laws to provide for the government of municipalities and to restore lost jurisdiction to the supreme court, these matters having been rendered chaotic by the action of that court during the early summer.

The governor's message was received after which adjournment was taken. In his message Gov. Nash calls attention to the act, passed last May, depriving the supreme court of jurisdiction over the appellate jurisdiction formerly possessed by the court. The repeal of the act is recommended. Continuing the message says:

"During the last days of June the supreme court of the state handed down several decisions which practically deprived our municipal corporations of all government. It is apparent that this is an extraordinary occasion which needs to be met by the earliest possible moment. Constitutional government must be restored to our cities and villages. The labor demanded of us is not so much a work of construction as of re-adjustment. The question now is not what we think would be a 'model' municipal government, but what we can get considering the constitutional limitations and all the circumstances surrounding us. The question must be approached with a spirit of 'give and take' and with a determination to accomplish something which will bring order out of chaos. It is time enough to attempt to have our favorite ideas in regard to municipalities incorporated into law after order has been restored and when the general assembly has ample time at its regular session to discuss and consider them."

The governor then briefly the history of constitutional government of municipalities in Ohio, advises that the legislature ignore the requests for a constitutional convention and submit a municipal code bill. The enactment of which he recommends.

PRESIDENT AND TRUSTS.

English Newspapers Taking Time to Digest His Views.

London, Aug. 25.—The newspapers here are taking time to digest President Roosevelt's views on trusts, and there has been little comment upon the subject thus far. The Evening Standard, and considers that his definition of the position combinations ought to occur, "precisely what is expected of a man of the president's temperate, logical mind," and adds that "the suggestion of governmental supervision of capitalistic rings is admirable in the ordinary, although it is not easy to surmise how it can be made operative."

The Pall Mall Gazette remarks: "President Roosevelt's pronouncement leaves no doubts that he intends to take action in the direction of a concentration of forces and that this force needs guidance and not blind opposition."

"At the same time it is too wise to ignore the fact that the tendency of commerce is in the direction of a concentration of forces and that this force needs guidance and not blind opposition."

Colorado Socialist Ticket.
Denver, Colo., Aug. 25.—The referendum vote of the Socialists of the following ticket:

For Congress—Ida L. Howe, of Denver.

Governor—Edward C. Boyce, Denver.

Lieutenant Governor—R. A. Southworth, Denver.

Secretary of State—C. H. Norris, Buena Vista.

Attorney General—Carl Whitehead, Denver.

Auditor—William N. Nash, Delta.

Superintendent of Public Instruction—Anna F. Parrott, of Goldfield.

Colombian Rebels Increase.

Kingston, Jama., Aug. 25.—The British steamer Orinoco which arrived here today from Colombia ports, reported that the rebels of Colombia are increasing their forces continually and that there is great activity in the vicinity of the isthmus. It is feared that the government garrison at Colon cannot successfully defend the town, owing to the strength of the rebels.

The Orinoco has as a passenger Capt. Navarro, who is proceeding to the island of Trinidad to take command of the Venezuelan revolutionary steamer known as the San Righ and Bolivar, which the Colombian government is reported to have acquired from the Venezuelan revolutionary party for warship service.

Platt Returns Home.

New York, Aug. 25.—Senator Thomas C. Platt has returned to this city after a two weeks' visit to the Adirondacks. He had no comment to make on current matters, saying that he had not kept in touch with recent developments. He will remain in the city until about Sept. 26, when he will leave for Saratoga to attend the state convention.

Coal Strike Closes Work.

Huntington, W. Va., Aug. 25.—Work has been suspended indefinitely on Lock No. 2, Big Sand river, in the Adirondacks. The coal strike has become exhausted because of the anthracite strike, which has caused most of the cement plants to close.

DOOLY DEEDS TO WELLS-FARGO

Transfers Valuable Property to Company He Once Represented.

WHAT DOOLY SAYS ABOUT IT

List Includes the Keogh-Wright Hospital and Several Modern Residences Opposite Lowell School.

John E. Dooly, former cashier of Wells, Fargo & Co., today transferred to it a large amount of valuable property. The deeds went on record at a late hour this afternoon. In speaking of the matter to the "News" Mr. Dooly said the transaction was not the result of any obligation of his to the company, but that it was simply the transfer of property that Wells, Fargo & Co. had acquired during the collapse that followed the boom and that the deeds all ante-dated 1890. Among the property transferred is the Keogh-Wright hospital and a number of residences on E street which, Mr. Dooly says, were taken in under mortgage in 1898 from John G. Mitchell. The full list is as follows:

Warranty Deed—John E. Dooly to Wells, Fargo & Co., Sec. 17, township 1 north, range 1 east, 35.

Warranty Deed—John E. Dooly and wife, Wells, Fargo & Co., 500-1000 lot, in Hackett Sub., excepting lots 6 to 12 inclusive, block 3 Hackett's Sub., \$1.

Warranty Deed—John E. Dooly and wife, to Wells, Fargo & Co., north 1/2 of southwest 1/4, section 15, township 2 south, range 2 west.

Also, northwest 1/4 of southwest 1/4, section 15, township 2 south, range 2 west.

Also northeast 1/4, southwest 1/4, section 15, township 2 south, range 2 west.

Also 18 1/2 square rods, lot 4, block 30, plat D.

Also und. 2-3 northeast 1/4, northeast 1/4, section 21, township 2 south, range 2 west.

Also 18 1/2 rods, lot 8, block 47, plat C.

Also east 1/2 lot 6, block 31, plat B.

Also part lot 1, block 47, plat B.

Also lot 1, block 30, plat B.

Also lot 2, block 37, plat D.

Also west 1/2 lot 2, block 113, plat A.

Also, lots 14, 15, 16, 17, 18, 19, Pearson's sub., \$10.

ON GOOD TERMS AGAIN.

It is stated that Duke and Robertson are on good terms again; that they are working side by side as well as they ever did. In fact, there are those who are unkind enough to allege that they were never at outs at all and that their alleged disagreements after their arrest was all make believe.

APOSTLE YOUNG'S CONDITION

Undergoes a Successful Operation at Rexburg, Idaho, Today.

Dr. A. C. Young left yesterday morning for Idaho, his purpose being to conduct safely to this city his father, Apostle Brigham Young, who, reports state, has suffered a relapse physically, and is at present in a bad way.

Readers of the "News" will remember that some seven weeks ago Apostle Young, Apostle Woodruff, and others, left this city on an extended pleasure trip, the same having been planned in the hope that it would benefit Apostle Young's health. For a time the trip was highly beneficial and the Apostle's condition improved wonderfully. But a few days ago he had a setback and was attacked by dizziness and other troubles. He is now in the Teton Basin, where the party attended a conference yesterday.

O. C. Beebe, one of the party, returned Saturday night. He says the outing for the most part has been highly enjoyable and those participating have had a most excellent time. The party comprised Apostle Young and Woodruff, Mrs. Woodruff, George S. Gibbs, Isaac Russell and Mr. Beebe. They went first to Bear Lake, then to Star Valley, Jackson's Hole, followed the Buffalo river to the Big Horn Basin, and then back by another route to Jackson's Hole, where they stopped for a few days. In their journey they held meetings at Burlington, Cowley, Byron and other settlements in the Big Horn Basin, at each of which a time of rejoicing was had.

SUCCESSFUL OPERATION.
A telegram from Rexburg to the First President's office today says that Drs. Young and Rich performed a successful operation on Apostle Young this morning, and that they would leave for this city on this afternoon's train.

SUSPECTS IDENTIFIED.

Police Laud Two Men Supposed to be During Footpads.

The police have finally landed two of the holdup suspects who have been operating in this city for some time, and their prospects for going over the road to the state prison are exceedingly good.

The men are those arrested by Detectives Chase and Gillespie last week, and one of them has been positively identified by William Perry, the paper-hanger who was held up on the night of the 19th and relieved of 25 cents. The suspects gave their names as J. H. Carson and T. E. Stubbs. The former is the one recognized by Perry. He is the one who pulled his mark from his face when he searched Perry's pockets. The latter called at the police station this morning and was confronted with the suspects. In an instant he recognized Carson as one of theburglars. Both men denied the charge, but the police say that was to be expected.

Asst. County Atty. Looftbourough filed a complaint charging the men with robbery, and Mr. Perry signed a "The fellows will be arraigned tomorrow morning."

ODGEN ROBBERY CASE.

W. R. Ferguson Must Answer to the District Court.

(Special to the "News.")
Ogden, Aug. 25.—W. R. Ferguson was given a hearing this morning before Judge Howells on the charge of robbery. The first witness was Bertha Neslin of Iowa, who testified that while

en route east from the coast on the 7th of the month she had a small hand bag containing a diamond pin and other articles; that while sleeping on the 7th at about 11 p. m. the satchel was stolen. She identified the articles taken from Ferguson when he was arrested as her property. The conductor and brakeman of the train upon which the robbery occurred testified that Ferguson was a passenger thereon, and that he left the train near Fenion, Nev. Ferguson testified in his own behalf and said that he did not steal the value, but found it at the place mentioned above. It had been cut open and part of its contents removed. He admitted, however, that he took the articles found upon him from the satchel, as was held to the district court in \$1,000, which he could not furnish and was turned over to the sheriff.

RESCUED HIS SON FROM A MOB.

Shenandoah, Pa., Aug. 25.—August Sheuch, aged 56, a special policeman in the service of the Lehigh Valley Coal company, was assaulted and stabbed today while attempting to rescue his son, William Sheuch, a non-union workman, from a mob of about 3,000 strikers on the outskirts of Hazleton. The trouble occurred at the company's No. 40 colliery, where young Sheuch worked, in an attempt on the part of the strikers, who had gathered from all parts of the Hazleton region, to frustrate the plans of the company for a partial resumption.

Two hundred and fifty non-union men had been secured. A majority of them were taken to the workings in a special train, with which the strikers did not attempt to interfere, but Sheuch, who lives in this city, walked from his home toward the colliery. He fell into the hands of the pickets, and most of the clothing was torn from his back in the struggle that followed. When Sheuch's father rushed to his aid, the mob set upon the elder Sheuch, who finally was rescued by a mine foreman and removed to a hospital.

Sheuch was stabbed in the breast and on each hip, kicked in the abdomen and struck on the head with a stone. His injuries are not very serious.

The effort to prevent work at the mine was successful. The non-union men had been secured. A majority of them were taken to the workings in a special train, with which the strikers did not attempt to interfere, but Sheuch, who lives in this city, walked from his home toward the colliery. He fell into the hands of the pickets, and most of the clothing was torn from his back in the struggle that followed. When Sheuch's father rushed to his aid, the mob set upon the elder Sheuch, who finally was rescued by a mine foreman and removed to a hospital.

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Sees No Sign of A Settlement.

Gen. Gobin Says All Indications Point More Definitely To a Prolongation of the Strike—Uses Every Opportunity to Make a Conservative Plea For the Strikers—Operators More Willing to Come to An Accommodation.

Shenandoah, Pa., Aug. 25.—After having met a number of mine operators, Gen. Gobin said today that he does not see any signs of a settlement of the strike. In fact, he states that all indications point more definitely to a prolongation of the strike now than they did when he first reached here. Gen. Gobin is using his good offices toward a settlement and he allows no opportunity to pass, when in conference with operators, to make a conservative plea for the men on strike.

Individual operators are beginning to display evidence of a willingness to end the strike if a method could be shown them how they could make concessions to the men without stultifying themselves. In speaking with members of the staff at brigade headquarters, some have within the past few days stated that if a way could be suggested whereby they could give in without placing themselves in a bad light, they would favor a settlement.

The miners display a friendly feeling toward Gen. Gobin personally and the military has become popular.

NEVADA SILVER PARTY CONVENTION

Reno, Nev., Aug. 25.—The Silver party party state convention meets in this city tomorrow to nominate a United States congressman and a full state ticket. The Democratic state convention meets here also on the same date and for the same purpose. Fusion may or may not be effected.

The Democrats are fighting Sadler's renomination for governor and it is believed that Congressman Knowlton, candidate for United States senator, is behind the fight made on Sadler. John Sparks is being boomed by the Democrats for the position, but he has not yet consented to run. Sparks is a wealthy cattleman and owner of the Nevada Wedekind mine. He would make

a strong candidate for governor. Sadler, however, claims that he has votes enough to secure the nomination. Van Duser is an avowed candidate for Congress, but there are several